

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

PERSONAL AUDIO, LLC,

Plaintiff,

v.

APPLE INC.,
SIRIUS XM RADIO, INC.,
COBY ELECTRONICS, CORP.,
ARCHOS, INC.,

Defendants.

CASE NO. 9:09-CV-00111-RC

JURY TRIAL DEMANDED

**DECLARATION OF DAVID J. HEALEY IN SUPPORT
OF DEFENDANTS' MOTION TO TRANSFER VENUE**

I, David J. Healey, declare as follows:

1. I am an attorney licensed to practice law in the State of Texas and admitted to the Eastern District of Texas. I am a principal at the law firm of Fish & Richardson P.C., counsel for Apple Inc. in this case. I make these statements based upon my own personal knowledge.
2. This declaration is made in support of Defendants' Motion to Transfer Venue.
3. Exhibit A is a true and correct copy of excerpts relating to Personal Audio, Inc. Included in this exhibit is a copy of Personal Audio, Inc. Summary Screen as it appears on the Commonwealth of Massachusetts Secretary of State website; excerpts from the patent assignment Reel: 020555 Frame: 0882-0884, Reel: 8368 Frame: 0689-0692, and Reel: 021085 Frame: 0565-0573.

4. Exhibit B is a true and correct copy of excerpts relating to Janet F. Holian. Included in this exhibit is a biography of Janet Holian as it appears on the Vistaprint website and a copy of Personal Audio, Inc. Summary Screen as it appears on the Commonwealth of Massachusetts Secretary of State website.

5. Exhibit C is a true and correct copy of excerpts relating to Gotuit Media and its subsidiaries. Included in this exhibit is a copy of Gotuit Media Corp. Annual Report Summary Screen as it appears on the Commonwealth of Massachusetts Secretary of State website; a copy of a Certificate of Amendment from the Commonwealth of Massachusetts Secretary of State relating to Gotuit Media Corp., dated June 18, 2009; Appellant's Brief relating to U.S. Patent Application No. 08/724,813 (the '076 Patent), filed on August 30, 2000; a copy of Gotuit Audio, Inc. Summary Screen as it appears on the Commonwealth of Massachusetts Secretary of State website; a Massachusetts Foreign Corporation Annual Report of Gotuit Audio, Inc., dated March 1, 2002; a copy of an Annual Report from Gotuit Video, Inc., filed with the Commonwealth of Massachusetts Secretary of State, dated August 24, 2004; excerpts of Gotuit Audio's website as it appeared in 2003 and archived at <http://web.archive.org>; contact information of Gotuit.com and a biography of Mark Pascarella as it appears on Gotuit's website; a press release relating to Mark Pascarella listed at <http://www.gotuit.com/press/coverage/121003.html>.

6. Exhibit D is a true and correct copy of a profile of Mark Pascarella from www.linkedin.com, printed on December 31, 2009.

7. Exhibit E is a true and correct copy of excerpts relating to Emergent Technologies printed from the New Hampshire Secretary of State website, Emergent Technologies website, and Pause Technologies website.

8. Exhibit F is a true and correct copy of excerpts relating to Mark Lowenstein. Included in this exhibit is a web print of Mark Lowenstein's profile as it appears on <http://www.linkedin.com>; a web print from Mobile Ecosystem's website listing Mark Lowenstein's contact information.

9. Exhibit G is a true and correct copy of excerpts relating to the Pause Technology LLC v. TiVo Inc. litigation. Included in this exhibit is the docket sheet from *Pause Technology LLC v. TiVo Inc.*, United States District Court, District of Massachusetts, Case No. 1:01-cv-11657-PBS; the Declaration of Perry M. Goldberg ("Goldberg Decl.") in Support of Defendant TiVo Inc.'s Motion For Leave To File First Amended And Supplemental Answer and Counterclaim, dated May 29, 2003, as filed in *Pause Technology LLC v. TiVo Inc.*, United States District Court, District of Massachusetts, Case No. 1:01-cv-11657-PBS along with exhibits 36 and 37 referenced in the Golberg Decl.

10. Exhibit H is a true and correct copy of declarations prepared by each defendant in support of Defendants' Motion to Transfer Venue.

11. Exhibit I is a true and correct copy of maps showing travel distance between Wayland, MA and Boston, MA, Andover, MA and Boston, MA, Woburn, MA and Boston, MA, Portsmouth, NH and Boston, MA, Methuen, MA and Boston, MA, Brookline, MA and Boston, MA, Belmont, MA and Boston, MA, Barnstable, MA and Boston, MA, and Yarmouth, MA and Boston, MA, printed from Google Maps between December 21, 2009 and December 29, 2009.

12. Exhibit J is a true and correct copy of a map showing travel distance between Lufkin, Texas and Boston, Massachusetts, printed from Google Maps on December 30, 2009.

13. Exhibit K is a true and correct copy of travel time estimates. Included in this exhibit is travel distance between New York, New York and Lufkin, TX, printed from Google

Maps on January 4, 2010; flight search results for a flight from New York, New York to Houston, TX, printed from Continental Airlines website on December 21, 2009; travel distance and time between George Bush International Airport in Houston, Texas and Lufkin, TX, printed from Google Maps on December 21, 2009; travel distance between New York, New York to Boston, MA, printed from Google Maps on January 4, 2010; flight search results for a flight from New York, New York and Boston, MA, printed from Continental Airlines website on December 21, 2009; travel distance and time between General Edward Lawrence Logan International Airport in Boston, MA and the United States District Court, District of Massachusetts, printed from Google Maps on December 21, 2009; travel distance between Lake Success, New York and Lufkin, TX, printed from Google Maps on January 4, 2010; travel distance and time between Lake Success, NY and New York, New York, printed from Google Maps on December 29, 2009; travel distance between Lake Success, New York and Boston, MA, printed from Google Maps on January 4, 2010; travel distance between Greenwood Village, CO and Lufkin, TX, printed from Google Maps on January 4, 2010; travel distance and time between Greenwood Village, CO and Denver, CO, printed from Google Maps on December 29, 2009; flight search results for a flight from Denver, CO to Houston, TX, printed from Continental Airlines website on December 21, 2009; travel distance between Greenwood Village, CO and Boston, MA, printed from Google Maps on January 4, 2010; flight search results for a flight from Denver, CO to Boston, MA, printed from Continental Airlines website on December 21, 2009; travel distance between Igny, France and Lufkin, TX, printed from www.distancecalculator.globefeed.com on January 4, 2010; flight search results for a flight from Paris, France to Houston, TX, printed from Continental Airlines website on December 22, 2009; travel distance between Igny, France and Boston, MA, printed from

www.distancecalculator.globefeed.com on January 4, 2010; flight search results for a flight from Paris, France to Boston, MA, printed from AirFrance website on January 4, 2009; travel distance between Shenzhen, China and Lufkin, TX, printed from www.distancecalculator.globefeed.com on January 4, 2010; flight search results for a flight from Hong Kong, China to Houston, TX, printed from United Airlines website on January 4, 2010; travel distance between Shenzhen, China and Boston, MA, printed from www.distancecalculator.globefeed.com on January 4, 2010; flight search results for a flight from Hong Kong, China to Boston, MA, printed from United Airlines website on January 4, 2010; travel distance between Cupertino, CA and Lufkin, TX, printed from Google Maps on January 4, 2010; flight search results for a flight from San Jose, CA to Houston, TX, printed from Continental Airlines website on December 22, 2009; travel distance between Cupertino, CA and Boston, MA, printed from Google Maps on January 4, 2010; travel distance and time between Cupertino, CA and San Francisco, printed from Google Maps on December 29, 2009; flight search results for a flight from San Francisco, CA to Boston, MA, printed from Continental Airlines website on December 22, 2009.

14. Exhibit L is a true and correct copy of the table of contents and Table C-10 from the Administrative Office of the United States Courts, 2008 Annual Report of the Director: Judicial Business of the United States Courts, Washington, D.C., U.S. Government Printing Office, 2009.

15. Exhibit M is a true and correct copy of United States District Court, District of Massachusetts Local Rule 16.6 Scheduling and Procedures In Patent Infringement Cases, adopted on November 4, 2008. Attached to these local rules is a chart which compares the patent local rules of the United States District Court, Eastern District of Texas with those of the United States District Court, District of Massachusetts.

16. Exhibit N is a true and correct copy of excerpts relating to Personal Audio, LLC.

Included in this exhibit is a Franchise Tax Certification of Account Status listing summary information relating to Personal Audio, LLC as it appears at <http://ecpa.cpa.state.tx.us>.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 4th day of January, 2010, in Houston, Texas.

By: /s/ David J. Healey
David J. Healey